**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**

**RSA 236 of 2006.**

**Date of decision April 27, 2007.**

---

**Partapo Ram and another** **….Appellants.**

**Versus**

**Mitru Ram and another** **……Respondents.**

---

*Coram*

**The Hon'ble Mr.Justice Dev Darshan Sud, J.**

*Whether approved for reporting?*[1]

**For the appellants** **Mr. Ajay Sharma, Advocate.**

**For Respondent No. 1** **Mr. Sanjay Dutt Vasudeva, Advocate.**

---

**Dev Darshan Sud, J. (Oral).**

**This appeal has been preferred by the defendant against the judgment and decree of the learned District Judge, Kangra at Dharamsala in Civil Appeal No. 96-D/XIII of 2005 reversing the judgment of the learned trial Court in Civil Suit No. 27/2002.**

---

[1] ***Whether reports of Local Papers may be allowed to see the judgment?***

**Respondents were the plaintiffs before the learned trial Court who had instituted a suit for permanent injunction restraining the defendants from interfering with the possession of the land as described in the plaint. The suit was contested by the appellant defendant. As many as 14 issues were framed and a counter claim filed by the respondent-appellant was dismissed with costs. Appeal was preferred before the learned District Judge, Kangra at Dharamsala who, by his judgment accepted the appeal and affirmed the findings with respect to the dismissal of the counter claim. Being aggrieved from the judgment and decree of the learned appellate Court, the appellant has filed this appeal challenging it on various grounds.**

**Learned counsel appearing for the appellant has urged that substantial questions of law arise for determination of this Court in the second appeal. Learned counsel submits that question No. 3 which has been framed and filed with the grounds of appeal, namely "whether learned first appellate court has misread the pleadings and evidence more particularly statements of DW-1 and**

**DW-3 thereby vitiating the impugned judgment and decree", arise for determination of this Court. Learned counsel has taken me through the findings of both the Courts below.**

**On the question as raised, learned appellate Court has considered the evidence of DW-1, DW-2 and DW-3 in detail. While appreciating the evidence, it has been held that DW-1 himself admits that the house of the plaintiff is situated on the suit land. To similar effect is the statement of DW-2 who has gone a step further and says that the land has been protected by fixing thorny bushes around the boundary. DW-3 also supports the version of DW-1 and DW-2. Learned appellate Court has after thorough examination of evidence came to the conclusion that the land is in possession of the plaintiffs. On Ex. D-1 which is a pedigree table, learned appellate Court holds that it cannot be related to the question of possession and similarly, entries in Ex.D-2 which is jamabandi for the year 1967-68 also does not support the contention of the defendants and is not relatable to the suit land. Learned appellate Court holds that on the question**

**of possession, the plaintiffs' evidence coupled with the statements of the defense witnesses conclusively establishes the possession of the respondent-plaintiffs. I do not find any substantial question of law which requires determination by this Court. Admittedly, question of possession is a question of fact and does not involve any question of law. For this purpose, learned appellate Court has considered the evidence in detail and I cannot find any error in the conclusions arrived at by it.**

**In the circumstances, this appeal is dismissed. There shall be no order as to costs.**

**April 27, 2007(PC).** **(Dev Darshan Sud)**
**Judge.**